The Cochin Boilers Bill.

✠ **Mr. Thomas Manjuran** *(Government Advocate and Law Officer).*—I beg to present the Select Committee Report on the Cochin Boilers Bill and in doing so I do not feel called upon to dwell at length on this. The Select Committee has carefully considered the Bill and found it acceptable and has suggested only one minor change which relates to section 26 of the Bill. I beg to move that the Bill as adopted by the Committee * may be taken into consideration.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I beg to second it.

Motion was put and carried

Clause 2 was put and carriep

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I beg to move the following amendment to section 3 of the Bill.

"Insert the following as sub-section (1) of section 3 of the Bill and number the existing section as sub-section (2):—

'(1) Nothing in this Regulation shall apply in the case of any boiler or steam-pipe—

(a) in any steam-ship as defined in section 3 of the India Steam-ships Act, 1884, or in any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917, or

(b) belonging to or under the control of His Majesty's Navy or the Royal Indian Marine Service'."

With regard to this as well as most of the following amendments, I have to make a preliminary statement. This Bill was prepared some time ago. Being of a complicated nature considerable time had to be taken in the preparation of the Bill and ever since it was prepared and while it was being scrutinised and pending in the Council several amendments were introduced in the corresponding law in British India and Government, anxious to conform as far as possible to the British Indian Law, have proposed certain amendments to the Bill. These amendments almost entirely relate to technical matters into which most of us are not competent to go and which have been tested by time and found useful in British India. I hope these amendments will be accepted.

✠ Speeches not corrected by the Hon'ble Member.

* Vide Appendix

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Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Amendment was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer.*—I beg to move the following amendment:—

"In the existing section 3 of the Bill which has now been numbered as sub-section (2) substitute the word 'or' for the word 'of' occurring at the end of the last but one line and delete the words 'private person or' occurring between the words 'any' and 'company' in the last line of that sub-section."

This is only to bring the Bill into line with the law in British India.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Mr. T. S. Balarama Ayyar*(Trichur North).*—On a point of information. In this Bill the word 'Diwan' seems to be used for the words 'Local Government' in the corresponding law in British India. But in the Bill which was considered yesterday the word 'Government' is substituted for 'Local Government'. Is there any special reason for this? If not why can't you use the word 'Government' here also?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Several of the things that the Diwan has to do under this Regulation are things that require more or less the personal attention of the Diwan and that is why the word 'Diwan' is used. In some places where the words 'Local Government' exist in the British Act the person that has to do such things here is the Chief Engineer. That is the reason why unlike the general practice the word 'Diwan' is used here.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I have absolutely no quarrel in using the word 'Diwan' or 'Chief Engineer'. But I want to know why in the amendments now proposed the word 'Government' cannot be used.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—In certain places where the word 'Diwan' is used the word 'Government' has also been used.

Mr. President.—What is the difference between the two?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Really nothing.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—Originally for the word 'Government' the term 'the Dewan

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with the sanction of His Highness the Maharaja' was used. The powers of the Diwan were mostly in matters of administrative routine and in matters of policy the wording of the Regulation has been 'the Diwan with the sanction of His Highness the Maharaja', where the sanction of His Highness the Maharaja has to be obtained. It is a survival of the old phraseology. It still exists, for example, in our Land Acquisition Regulation. There is absolutely no harm in using the word 'Government' instead.

Mr. President.—It is perfectly open for the legislature to specifically vest the powers with the Diwan or the Chief Engineer. But where the word 'Government' is used you should adopt a uniform basis. Otherwise it might lead to some dispute. Government of Cochin always means the Diwan acting with the sanction of His Highness the Maharaja and wherever that is intended you must hereafter use the word 'Government'. Wherever the word 'Diwan' is used it simply means that the powers in that particular case have been delegated to the Diwan. In future this will be followed.

Amendment was put and carried.

Clause 3 as amended was put and carried.

Clauses 4 to 6 were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*— I move: "In section 7 sub-section (4) of the Bill delete the words "'or refusal' occurring between the words 'issue' and 'of'."

Mr. T. S. Narayana Ayyar *(Secretary to Government).*— I second it.

Mr. T. S. Balarama Ayyar (*Trichur North*).—That needs some explanation.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—The Bill as now proposed to be amended reads thus:—

"(4). The Inspector shall on registering the Boiler issue to the owner a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the rules made under this Regulation provided that the Inspector shall, if he is unable to issue a certificate within forty-eight hours after the examination, grant to the owner a provisional order in writing specifying the pressure at which such boiler may, in his opinion, pending the issue or refusal of a certificate, be worked."

LIBRARY ARCHIVES Kerala Legislative Assembly

There is no real occasion to introduce the word 'refusal' there.

Mr. T. S. Balarama Ayyar (*Trichur North*).—Without the amendment the provision as it now stands contemplates that a refusal of the certficate could be made by the Inspector even after the registration. Having registered the boiler he can refuse the grant of a certificate. This section provides that the Inspector has every right to refuse the sanction of a certificate even after having registered the boiler. By the amendment now proposed, the Inspector will be bound to grant the certificate, once the boiler has been registered. The Inspector may take some time to grant the certificate because he may not have made up his mind whether the boiler is fit to be granted a certificate or not. When he takes time, a provisional order is issued so that the owner need not be under any difficulty. He issues a provisional order; then he takes his own time to consider whether a certificate should be granted; and suppose he comes to the conclusion that the boiler is one which cannot be given a certificate, he cannot refuse to grant the certificate.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—That right is not taken away at all. For all registration, before a pucca certificate is issued, a provisional certificate has to be issued.

Mr. T. S. Balarama Ayyar (*Trichur North*).— Not necessarily.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—What is stated here is that the Inspector shall issue a provisional order. That does not mean that he is compelled to issue a certificate. It may be that he has to issue a provisional order. But whether he should issue a pucca certificate is left to his discretion subject to the provisions of the Regulation. I wonder how the omission of the words would react on the boiler owners. It will be simply retaining two unnecessary words there.

Mr. T. S. Balarama Ayyar (*Trichur North*).—I only hold that the Inspector will have absolutely no right to grant the certificate. Pending the final certificate he may or may not issue a provisional certificate.

Amendment was put and carried.

Clause 7 as amended was put and carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I move, "In section 8 of the Bill:—

(1) delete the words 'or on its withdrawal or revocation' occurring in clause (a) of sub-section (1); and

(2) substitute the words 'Chief Engineer' for the words 'District Magistrate' wherever they occur in sub-section (7)."

Mr. T. S. Narayana Ayyar *(Secretary to Government)*—I second it.

Mr. T. S. Balarama Ayyar (*Trichur North*).—I want an explanation for the omission.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—For the simple reason that they are redundant. Why should we repeat that the certificate shall cease to be in force when it is withdrawn?

Mr. T. S. Balarama Ayyar (*Trichur North*).—But the power of the Inspector to withdraw and revoke the certificate should not be taken away.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The Hon'ble Member would concede that this has nothing to do with the Boiler owners.

Amendment was put and carried.

Clause 8 as amended was put and carried.

Clauses 9 and 10 were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I beg to move the following amendment:—

"Substitute the following for section 11 of the Bill:—

"11. The Chief Engineer may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise.—

(a) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or

(b) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition; or

(c) where the Diwan has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules; or

(d) where no such rules have been made, if the boiler is in charge of a person who is not having regard to the conditions of the boiler, in the opinion of the Chief Engineer, competent to have charge thereof:

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Provided that

(1) when the Chief Engineer withdraws or revokes any certificate or provisional order, he shall communicate to the owner of the boiler in writing the reasons therefor along with the order, and

(2) when the Chief Engineer withdraws or revokes a certificate or provisional order on the ground specified in clause (d) the order shall not take effect until the expiry of thirty days from the receipt of such communication.'

These provisions were introduced in the British Indian Act quite recently after the Bill was introduced in this Council. I think the amendments will be appreciated by the Member for Trichur North.

Mr. T. S. Balarama Ayyar *(Trichur North).*—My objection is with regard to proviso (2). One of the reasons entitling the Chief Engineer or Inspector to recommend the withdrawal or revocation of the certificate is under sub-section (c). Under proviso (2) as it originally stood where such revocation is made the Diwan has been given the power to exempt any person for a specified period from the operation of such rules. It is open to the Diwan to make rules providing for the exemptions of persons in charge of the boilers. According to this amendment the power of the Diwan to exempt any person is taken away. I think it is better to reserve the power of the Diwan to exempt any person. In the original section he has got such power. I do not see why that should be taken away. Therefore it may be retained.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—That relates only to a particular state of affairs. I do not think that has any direct reference to the issue in hand. That relates to an interim period. The provisions as now recast are altogether different. The Diwan can exempt persons only in cases coming under (e). These boilers have to be dealt with in a very serious manner. The British legislature revised their law and placed it on these terms.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—If this power of exemption is retained it will be inconsistent. The Diwan makes rules requiring that boilers shall be in charge of qualified persons. To exempt at the same time, these persons from these qualifications and to allow them to be in charge of boilers, is not only inconsistent but undesirable.

Mr. T. S. Balarama Ayyar *(Trichur North).*—The qualification fixed by the Diwan may be that persons in charge of boilers should hold certificates of competency. But persons may be really competent though not holding certificates and

LIBRARY ARCHIVES Kerala Legislative Assembly

though they have not passed the examinations. According to the rules made by the Diwan he cannot be in charge of boilers. But the Diwan is aware of the fact that he is competent. In such cases the Diwan must have power to exempt such persons.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—It must be incorporated in the rules, that persons who do not hold certificates but are otherwise competent may be in charge of boilers.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—There must be uniformity of law in matters like this and I hope the Members will not interfere here and there.

Amendment was put and carried.

Clause 11 as amended was put and carried.

Clauses 12 and 13 were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I beg to move; "In section 14, sub-section (1) of the Bill delete the words 'and any person in charge thereof' occurring between the words 'owner' and 'shall'."

Mr. T. S. Balarama Ayyar *(Trichur North).*—Why cannot you make the person in charge also liable?

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—The definition of the term 'owner' includes that also.

Amendment was put and carried.

Clause 14 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I move; "In section 15 of the Bill:—

(1) insert the words 'Chief Engineer' before the words 'District Magistrate' occurring in line four of the section and

(2) substitute the words 'Chief Engineer' for the word 'Diwan' occurring in the last line of the section."

These substitutions are necessary according to the scheme of the Regulation where the Chief Engineer should be given the powers.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

LIBRARY ARCHIVES Kerala Legislative Assembly

Amendment was put and carried.

Clause 15 as amended was put and carried.

Clauses 16 and 17 were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I move; "In section 18 of the Bill:—

(1) for the words 'person hereinafter specified' substitute the word 'Inspector' in sub-section (1) and for the words 'person specified' occurring in the last line of the same sub-section substitute the word 'Inspector',

(2) substitute the word 'Inspector' for the words 'person to whom the report is due' in sub-section (2), and

(3) delete sub-sections (3) and (4)."

This is to be in line with the British Indian Act and the reason is obvious. Instead of the person to be specified the Inspector has been substituted.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Amendment was put and carried.

Clause 18 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I move; "In section 19 of the Bill for the words 'of the communication to him of such order, lodge an appeal with the appellate authority to be constituted by the Diwan under this Regulation' substitute the words 'from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Engineer".

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Amendment was put carried.

Clause 19 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I move the following amendment;

"Substitute the following for section 20 of the Bill:—

Appeals to appellate authority

"Any person considering himself aggrieved by the order of the Chief Engineer:—

(a) Refusing to register a boiler or to grant or renew a certificate in respect of a boiler; or

(b) Refusing to grant a certificate having validity for the full period applied for; or

LIBRARY ARCHIVES Kerala Legislative Assembly

(c) Refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or

(d) Withdrawing or revoking a certificate or provisional order; or

(e) Reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or

(f) Ordering any structural alteration, addition or renewal to be made in or to a boiler or steam pipe or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler may within thirty days of the communication to him of such order lodge with the Chief Engineer an appeal to an appellate authority to be constituted by the Diwan under this Regulation."

Mr. T. S. Balarama Ayyar *(Trichur North).*—I have certain doubts on that. This section as amended is intended to provide for appeals against the decisions of the Chief Engineer. The power of refusing to register a boiler or to grant a certificate in respect of a boiler is not vested in the Chief Engineer. The section is intended to provide for appeals against the decisions of the Chief Engineer but the power of refusing to register a boiler lies with the inspector. It is the Inspector that does it.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The power of refusing to register a boiler does not go to the Chief Engineer at all.

Mr. T. S. Balarama Ayyar *(Trichur North).*—That is an appeal against the decisions of the Chief Engineer in the matter of the order of an Inspector to register a boiler. So it means that.

Mr. Thomas Manjuran *(Government Advocate and Law officer).*—Yes, it means that. It is a sort of second appeal.

Mr. President.—If the Inspector refuses to accept it must go to the Chief Engineer. If he refuses to register, it must go to the Diwan.

Amendment was put and carried.

Clause 20 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I move: Substitute the following for section 21.

Finality of orders.

"An order of an appellate authority under section 20 and save as otherwise provided for in sections 19 and 20, an order of the Chief Engineer or of an Inspector shall be final and shall not be called in question in any court."

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

LIBRARY ARCHIVES Kerala Legislative Assembly

Amendment was put and carried.

Clause 21 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I rise to move the following amendment: In Section 22 of the Bill.

(1) delete the words 'or fails' occurring after the word 'neglects' and
(2) delete sub-sections (1), (2) and (6) and re-number sub-sections (3), (4) and (5) as sub-sections (1), (2) and (3) respectively."

Amendment was put and carried.

Clause 22 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I move: "In Section 23 of the Bill.

(1) in Clause (a) delete the words; 'or permits it to be worked' 'insert the word 'any' between the words 'without' and 'such' and substitute the word 'being' for the words 'duly obtained and continuing and.

(2) delete clause (c)."

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Amendment was put and carried.

Clause 23 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer.)*—Sir, I rise to move the following amendment. "In section 24 of the Bill add the word 'or' after the words 'this Regulation' in clause (d) and insert the following as clause (e): —

"(e) uses or permits to be used a boiler of which he is the owner and which has been shifted from one place to another, without such shifting having been reported as required by section (6)"

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Amendment was put and carried.

Clause 24 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I move: "In section 25, sub-section 2 of the Bill, delete the words 'which may extend to Rs. 500' occurring between the words 'fine' and 'or'"

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Mr. T. S. Balarama Ayyar *(Trichur North).*—May I know why the limit has been taken up? Why not allow it to stand as it is and why give unlimited powers ?

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—In the British Act, the power is unlimited. The fine is not limited in the British Act.

Mr. Thomas Manjuran *(Government Advocate and Law officer).*—This is a far more serious offence. The fine is limited to Rs. 500 in the case of offences coming under (1); the first clause is not interfered with at all. With regard to the second, it is a very serious offence. By fraudulently inserting a number, this tantamounts to making it appear that the boiler which has not obtained a certificate has been registered. This will cause considerable loss of life. Supposing in a big Mill like the Sitaram, an explosion occurs, what will be the result? (Laughter). A good many people will die. (Laughter again).

Amendment was put and carried.

Clause 25, as amended, was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Before my Hon'ble Friend moves the amendment may I point out to him that the same amendment has been introduced by the Select Committee? The amendment proposed by the Hon'ble Member has been proposed by the Select Committee.

Mr. T. S. Balarama Ayyar *(Trichur North).*—May I know how the matter stands? Is there no difference?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—No prosecution for the offence made punishable by or under this Regulation can be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Government.

Sir, I rise to move the following amendment: "Delete the proviso to section 26 of the Bill."

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

LIBRARY ARCHIVES Kerala Legislative Assembly

Amendment was put and carried.

Clause 26 as amended was put and carried.

Clause 27 was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*— Sir, I rise to move: "In section 28 of the Bill.

(1) in Clause (f) delete the words' the conditions under which certificates or provisional orders may be withdrawn or revoked by such authorities.

(2) in clause (g) delete the words 'from one place to another'

(3) substitute the word 'or' for the word 'of' occurring as the last word in line 8, clause (h)

(4) substitute the figure '20' for the figure '19' occurring in clause (1) and

(5) insert the following as clause (n) and re-letter the existing clause (n) as clause (o) :—

"(n) for providing for the registration and certification of boilers in accordance with the rules made under this Regulation."

Of the five amendments that I am proposing, 3 and 4 are intended to correct certain mistakes in the provisions of the Bill.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*— I second it.

Amendments were put and carried.

Clause 28 as amended was put and carried.

Clauses 29 to 33 were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I rise to move the following amendment: Substitute the following for section 34 of the Bill:

"34. Repeal and savings. On and from the commencement of this regulation, the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth columns thereof.

Provided (1) that any Inspector appointed under any enactment so repealed shall be deemed to have been appointed under this Regulation and

(2) that any rules made, scales and forms prescribed and power conferred under any enactment hereby repealed shall, so far as they are not inconsistent with this Regulation have the same force and effect, as if they had been respectively made, prescribed and conferred under this Regulation and by the authority empowered thereby in such behalf."

LIBRARY ARCHIVES Kerala Legislative Assembly

Amendment was put and carried.

Clause 34 as amended was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir I rise to move the following amendment:—

Insert the following as Schedule to the Bill.—

The Schedule.

See section 34.

Enactments repealed.

Year	No.	Short Title	Extent of repeal.
1091	III	The Cochin Steam Boilers and Prime Movers Regulation.	The whole
1095	XVI	The Cochin Steam Boilers and Prime Movers (Amendment) Regulation.	do
1107	II	The Cochin Steam Boilers and Prime Movers (Amendment) Regulation.	do
1107	V	The Cochin Steam Boilers and Prime Movers (Amendment) Regulation.	do

Schedule was put and carried.

Clause 1 was put and carried.

Title and Preamble were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I beg to move that the Bill may be taken up and finally passed tomorrow.

Motion was put and carried.

The Cochin Village Panchayat Regulation Amendment Bill—Sec. 56.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I beg to introduce the Cochin Village Panchayat Regulation Amendment Bill (Section 56). The reason why

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